

386A.8-070 Other claims against dissolved trust.

- (1) A statutory trust may, and a series trust shall, publish notice of its dissolution pursuant to this section.
- (2) The notice shall:
 - (a) Be published once in a newspaper of general circulation in the county where the statutory trust's principal office, or, if none in this Commonwealth, its registered office, is or was last located;
 - (b) Provide the name of the statutory trust and, if a series statutory trust, the name or names under which each series has transacted business;
 - (c) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent; and
 - (d) State that a claim against the trust, or in the case of a series trust a claim against a series or against the property of or associated with a series, will be barred unless a proceeding to enforce the claim is commenced within two (2) years after the publication of the notice.
- (3) If the statutory trust publishes a newspaper notice in accordance with subsection (2) of this section, the claim of each of the following claimants shall be barred unless the claimant commences a proceeding to enforce the claim within two (2) years after the publication date of the newspaper notice:
 - (a) A claimant who did not receive written notice under KRS 386A.8-060;
 - (b) A claimant whose claim was timely sent to the trust but not acted on; and
 - (c) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.
- (4) A claim may be enforced under this section:
 - (a) Against the statutory trust, to the extent of the assets of the trust that remain undistributed;
 - (b) To the extent of assets of the statutory trust that have been distributed in liquidation, against a beneficial owner to the extent of a pro rata share of the claim, but the total liability of a beneficial owner for all claims under this section shall not exceed the total assets of the statutory trust, or the assets of or associated with a series dissolved with the statutory trust, distributed in liquidation to the beneficial owner; and
 - (c) For claims against a series or against the property of or associated with a series, as provided in KRS 386A.4-100(4).
- (5) A statutory trust that published a notice under this section may file an application with the appropriate court for a determination of the amount and form of security to be provided for payment of claims that are contingent or have not been made known to the trust or that are based on an event occurring after the effective date of the dissolution of the trust but that, based on the facts known to the trust, are reasonably estimated to arise after the effective date of the dissolution of the trust. Provision need not be made for any claim that is or is reasonably anticipated to be barred under subsection (3) of this section.

- (6) Within ten (10) days after the filing of the application provided for in subsection (5) of this section, notice of the proceeding shall be given by the statutory trust to each claimant described in KRS 386A.8-060(2).
- (7) The appropriate court may appoint a guardian ad litem to represent all claimants whose identities are unknown in any proceeding brought under this section, including those claimants whose claims are contingent or based upon an event occurring after the effective date of dissolution. The reasonable fees and expenses of the guardian, including all reasonable expert witness fees, shall be paid by the statutory trust.
- (8) Provision by the statutory trust for security in the amount and the form ordered by the appropriate court under subsection (5) of this section shall satisfy the trust's obligation with respect to claims that are contingent, have not been made known to the trust, or are based on an event occurring after the effective date of the trust's dissolution, and those claims may not be enforced against a beneficial owner to whom assets of the trust have been distributed.

Effective: July 12, 2012

History: Created 2012 Ky. Acts ch. 81, sec. 70, effective July 12, 2012.